

Attorney Docket No. 60,132-074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DeWeerd, et al.
Application No.: 09/674,585
Filing Date: July 2, 1999
International Application No.: PCT/US99/16412
International Filing Date: July 20, 1999
For: ELECTRO-OPTICAL MECHANICAL
INSTRUMENT
Attorney Docket No.: 60,132-074

RECEIVED

31 AUG 2001

Legal Staff
International Division

Assistant Commissioner for Patents
Washington, D.C. 20231
BOX PCT

PETITION FOR FILING APPLICATION WITHOUT ALL INVENTORS SIGNING

Dear Sir/Madam:

Applicant, Virtek Vision Corporation, hereby petitions the Commissioner to accept the filing of the above-identified U.S. Patent Application by it, as the party to which the invention disclosed and claimed in said Patent Application rightfully belongs, and on behalf of and as agent for the non-signing inventor.

An Affidavit is attached hereto providing proof of the pertinent facts concerning the inability to locate one of the inventors to join in the present application for patent and establishing that Virtek Vision Corporation has a sufficient proprietary interest in this matter to make application on behalf of and as agent for the inventor, and showing that such action is necessary to preserve the rights of the parties and to prevent irreparable damage.

The Assignment and Declaration have been signed by co-inventors Herman DeWeerd and Michael Beach. However, the remaining co-inventor has not signed the Declaration or Assignment papers because his whereabouts is unknown.

The last known name and address of the non-signing inventor in this application is as follows:

Jose Hernandez
81 Cross Street
Somerville, Massachusetts 02145

The invention was developed under the authorization of Virtek Vision Corporation (hereinafter "Virtek") by Jose Hernandez, who was employed by Virtek to do so.

Upon information and belief, Virtek is entitled to clear title to the invention and to the above-identified patent application and any patent which issues thereon.

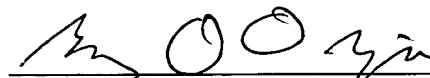
Since Jose Hernandez was employed by Virtek, that is, paid compensation to develop an electro-optical mechanical instrument, this invention belongs to Virtek and the inventor who contributed to the development of the device has a duty to assign the invention, patent application, and any patent which issues thereon to Virtek and upon direction of Virtek to execute an application therefor.

Jose Hernandez has left the employ of Virtek and his whereabouts is presently unknown as indicated in the enclosed Declaration of Cheryl Boisclair. Virtek is believed to be entitled to make such application on behalf of and as agent for the missing inventor pursuant to 37 C.F.R. 1.47)(a).

According to the notification, there has been no request made for any fees to be submitted, however, the Commissioner is hereby authorized to charge any additional fees that may be necessary and/or credit any overpayments to our deposit account number 08-2789.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

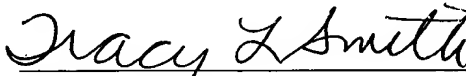


Gregory D. DeGrazia, Reg. No. P-48,944
The Pinehurst Office Center, Suite 101
39400 Woodward Avenue
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(248) 723-0325

Dated: August 17, 2001

CERTIFICATE OF MAILING

I hereby certify that the attached **PETITION FOR FILING APPLICATION WITHOUT ALL INVENTORS SIGNING** is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on August 17, 2001.



Tracy L. Smith